IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1959

No. ———

THE STATE OF LOUISIANA, EX REL. JACK P. F. GREMILLION, ATTORNEY GENERAL,

Appellant,

versus

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL.,

Appellee.

WADE O. MARTIN, JR., SECRETARY OF STATE, STATE OF LOUISIANA, ET AL.,

Appellant,

versus

NEW ORLEANS BRANCH OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL.,

Appellee.

Appeal from the United States District Court for the Eastern District of Louisiana, New Orleans Division.

JURISDICTIONAL STATEMENT ON BEHALF OF APPELLANTS.

JACK P. F. GREMILLION,
Attorney General,
State of Louisiana,
Capitol,
Baton Rouge, Louisiana;

GEORGE PONDER,
First Assistant Attorney General,
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NEW ORLEANS BRANCH OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL.,

Appellee.

Appeal from the United States District Court for the Eastern District of Louisiana, New Orleans Division.

JURISDICTIONAL STATEMENT ON BEHALF OF APPELLANTS.

STATEMENT AS TO JURISDICTION.

Appellants appeal from the judgment of the United States District Court for the Eastern District of Louisiana, sitting as a three-judge Court, entered on the 29th day of February, 1960, motion for new trial denied on March 31, 1960, declaring unconstitutional Louisiana Revised Statutes of 1950, 12:401-409 (Act 2 of 1924) and

Louisiana Revised Statutes of 1950, 14:385-388 (Act 260 of 1958), and further enjoining enforcement of said statutes insofar as they might effect the National Association for the Advancement of Colored People, its affiliates, officers, members, contributors, voluntary workers, or any of them; appellants further submit this statement to show that the Supreme Court of the United States has jurisdiction of this appeal and that a substantial question is presented.

OPINION BELOW.

The opinion of the United States District Court for the Eastern District of Louisiana is not yet reported, however the judgment of the Court and the reasons therefor are attached hereto as Appendix "A".

BASIS OF JURISDICTION.

I.

One of these suits was originally brought in the 19th Judicial District Court for the Parish of East Baton Rouge, State of Louisiana *(State of Louisiana, ex rel. Jack P. F. Gremillion, v. National Association for the Advancement of Colored People)* seeking to enjoin appellee, National Association for the Advancement of Colored People, from doing business in the State of Louisiana. The said suit was subsequently removed to Federal Court, where it was subsequently consolidated with the other suit herein brought by the New Orleans Chapter of the National Association for the Advancement of Colored People against certain state officers pursuant to 28 U. S. C. 1531, 28 U. S. C. 1343 and 28 U. S. C. 2201 seeking a declaratory judgment to determine constitutionality of R. S.

14:385-389 and R. S. 12:401-409; and further seeking to enjoin the enforcement of said statutes against the National Association for the Advancement of Colored People, its affiliates, members, etc. The judgment of the District Court was entered February 29, 1960, the motion for the trial was denied on March 31, 1960, and the notice of appeal was filed in that Court on April 25, 1960.

II.

The jurisdiction of the Supreme Court to review this decision by direct appeal is conferred by Title 28, U. S. C. 1253, since the case was heard by a three-judge Court pursuant to 28 U. S. C. 2281-4.

III.

The following decisions sustain the jurisdiction of the Supreme Court to review the judgment on direct appeal in this case:

Herkness v. Irion, 49 S. Ct. 40, 278 U. S. 92, 73 L. Ed. 198;

Palmetto Fire Ins. Co. v. Conn, 47 S. Ct. 88, 272 U. S. 295, 71 L. Ed. 243.

IV.

The following statutes of the State of Louisiana were held to be invalid:

Louisiana Revised Statutes 12:401-409 (Act 2 of 1924);

Louisiana Revised Statutes 14:385-389 (Act 260 of 1958).

THE FOLLOWING QUESTIONS ARE PRESENTED BY THIS APPEAL.

In declaring Louisiana Revised Statutes 14:385-389 and Louisiana Revised Statutes 12:401-409 unconstitutional insofar as they pertain to the National Association for the Advancement of Colored People or any of its affiliates, officers, members, contributors, etc., being forced or compelled to disclose names or addresses of any member or contributor of the National Association for the Advancement of Colored People or from requiring any affidavits from being submitted under provisions of Act 260 of 1958, the District Court for the Eastern District of Louisiana committed the following error:

(a) In failing to recognize the sovereign right of the state to exercise its police power by requiring that certain organizations, doing business within the state, file membership lists.

(b) In failing to recognize that the production of the aforesaid membership and officers lists was vital in order that the state perform its obligations to its citizens.

(c) In holding that the National Association for the Advancement of Colored People or its affiliates do not have to file with the state a list of officers of the parent organization, or its affiliate branches located within the state.

(d) In denying to the State of Louisiana the right to protect itself against associations dominated and controlled by Communists or subversive leadership.

(e) In permitting the action originally brought to the State Court, to be removed to Federal Court, despite the complete failure to comply with the removal statutes.

V.

STATEMENT OF THE CASE.

The State of Louisiana on the first day of March, 1956, filed in the 19th Judicial District Court for the Parish of East Baton Rouge a suit seeking to enjoin the National Association for the Advancement of Colored People from doing business in the State, because of its failure to comply with the provisions of Louisiana Revised Statutes 12:401-409 which required that said membership corporation file a list of its members and officers with the Secretary of State once each year. A petition for removal (Civil Action No. 1678, *State of Louisiana, ex rel. Jack P. F. Gremillion, v. National Association for the Advancement of Colored People, et al.)* was filed in the United States District Court for the Eastern District for Louisiana, Baton Rouge Division, on March 28, 1956, seeking to remove the suit instituted in the State Court pursuant to provisions of Title 28 U. S. C. 1443, *et seq.*

Despite the proported petition for removal the State District Court issued an injunction restraining the National Association for the Advancement of Colored People, its affiliates and members, from functioning in the state until the membership and officer list filing requirement had been complied with. On November 26, 1956, Louisiana Court of Appeals, First Circuit, held that since a proported removal petition had been filed in the Federal District Court, the State Court could not decide the validity of the proported removal proceeding, and that the State Court lost jurisdiction until such time as the Federal Court decided whether or not it had the jurisdiction to hear the case on removal. (90 So. 2nd. 884.)

No further action was taken on this case until such time as a subsequent case (*Orleans Branch of the NAACP, et al., v. Wade O. Martin, et al.*, Civil Action No. 8554) was instituted in the Federal District Court alleging that L. R. S. 14:385-389 as well as L. R. S. 12:401-409 were unconstitutional in that they violated the due process and equal protection clauses of the Fourteenth Amendment, Article 3 of the Federal Constitution and Amendment 1 to the United States Constitution.

That both of these cases were consolidated and heard before a three-judge court at which time evidence was introduced by depositions, affidavits and documents. On February 29, 1960, the three-judge court rendered judgment declaring that said statutes were unconstitutional and enjoining enforcement by any state official of their provisions against the National Association for the Advancement of Colored People and its affiliates, members, etc.

On March 7, 1960, appellants filed a motion for new trial, which was denied on March 31, 1960, and notice of appeal in these cases to the Supreme Court of the United States was filed on the 25th day of April, 1960.

THE QUESTIONS PRESENTED ARE SUBSTANTIAL.

The issues involved here present an interesting and timely inquiry into the relative status of the police power granted to the state by the Tenth Amendment and certain personal immunities and privileges granted to the individuals by the provisions of the United States Constitution.

(a and b) It is axiomatic in the law that the individual states have the power to permit or not to permit certain corporations and or organizations to be formed under the provisions of their laws and to subsequently operate within aforesaid states. The power to permit, or not to permit, such an organization to operate within the state encompasses also the power to create and enforce certain regulatory provisions which the state feels are necessary for the protection of its citizens; and to make compliance with such provisions a prerequisite to operation within the state.

The State of Louisiana is very liberal with regard to non-profit corporations and other organizations of a similar nature which desire to operate within the state. There are practically no provisions whatsoever which prohibit the formation of such organizations because of the type of dogma they seek to espouse, membership they seek to invite into their organization or endeavors they desire to undertake. Their right function is in no way discretionary with the state and their actions may not be prohibited because the state feels that those actions are not of the nature or type that the general public approves, or what is generally state policy, such as may be found in other states. To the contrary, organizations of this type may form and be operative in our state.

There are, however, certain rules and regulations which the aforesaid types of organizations must conform to, one of which was R. S. 12:401-409. These provisions were originally enacted in 1924 in order to prevent membership organizations within the State of Louisiana from being able to operate under cover of darkness. The stat-

ute herein is one which the Supreme Court is familiar with since an almost identical statute was passed upon in the case of *Bryant v. Zimmerman*, 278 U. S. 63.

The court below seemed to feel that the recent cases of the *National Association for the Advancement of Colored People v. Albama*, 357 U. S. 449, and *Bates v. the City of Little Rock*, 361 U. S. 516, were **controlling** herein, rather than the *Zimmerman* case *supra*. Appellants feel that the court below misconstrued the holdings in those two cases and should have been controlled by the holding in the *Zimmerman* case until such time as is overruled by this court.

Both the *Alabama* and *Bates* cases, while recognizing the right of freedom of association, hinge on a proposition as to whether or not the state has demonstrated an adequate interest in obtaining the membership list of organizations to justify the abridgement of associational freedom which such disclosures will affect. Both of these cases decide that the membership list would actually furnish no legitimate purpose.

> "Whether there was 'justification' in this instant termed solely on the substantiality of Alabama's interest in obtaining the membership list. During the course of a hearing before the Alabama Circuit Court on motion of petitioner to set aside a production order, the State Attorney General presented at length, under examination by petitioner the State's reasons for requesting a membership list. The exclusive purpose was to determine whether petitioner was conducting intrastate business in violation of the Alabama foreign corporation reg-

istration statute, and the membership lists were expected to help resolve this question. The issues in the litigation commenced by Alabama by its bill in equity were whether the character of petitioner in its activities in Alabama had been such as to make petitioner subject to the registration statute, and whether the extent of petitioner's activities, without qualifying, suggested its permanent ouster from the State. Without intimating the slightest view upon the merits of these issues, **we are unable to perceive that the disclosure of the names of petitioner's rank-and-file members has a substantial bearing on either of them. As matters stand in the State Court, petitioner (1) has admitted its presence and conduct of activities in Alabama since 1918: . . .**" *NAACP v. Alabama*, 357 U. S. 449, at page 464. (Emphasis supplied.)

"When it is shown that State action threatened significantly to impinge upon constitutionally protected freedom, it becomes the duty of this Court to determine whether the action bear a reasonable relationship to the achievement of the governmental purpose asserted as its justification."

"In this record we can find no **relevant correlation between the power of the municipalities to impose occupational license taxes and the compulsory disclosure and publication of the membership lists of the local branches of the National Association for the Advancement of Colored People.** The occupation license tax ordinances of the municipalities are squarely aimed at reaching all the commercial, professional, and business occupations within the

communities. The taxes are not, and as a matter of State law, cannot be, based on earnings or income but upon the nature of the occupation or enterprise conducted." *Bates v. City of Little Rock, supra*, page 9. (Emphasis supplied.)

The decision in both of these cases clearly sets forth that there is a constitutional right to freedom of association. However, neither of them establishes the principle that the State cannot require membership lists if the production of said list is reasonably necessary to achieve a legitimate and substantial governmental purpose. Thus, the Court must not only determine whether or not the petitioners herein have been deprived of a privilege and right, under the first amendment, but must further determine whether the State of Louisiana in enacting such legislation did so pursuant to a legitimate and substantial governmental purpose.

The purpose of the State of Louisiana enacting such legislation has been clearly and adequately shown by the newspaper clippings admitted into evidence as well as a law review article by the governor of the State of Louisiana showing the circumstances surrounding the enactment of the legislation, as well as the purpose for which the legislation was enacted. It is clear beyond question that the State had two purposes in mind when adopting Act 2 of 1924.

1. The Legislature intended to curtail the activities of the Klu Klux Klan by submitting to

public light a list of the members of said organization.

2. The Legislature intended that all organizations falling within the class set forth by it should in the future file membership lists so that such organization could not, at a later date, under cover of secrecy, develop into one that might be inimical to the welfare of the State of Louisiana and its citizens.

The opinion of the lower court in effect said that the State of Louisiana could require a membership list to be filed for an organization which had already committed acts of violence, but that the State would be prevented from enacting legislation which might protect its citizens in the future. In common terms, this would only permit the State to lock the barn door after the horse was already missing.

In view of the fact that the State enacted its membership filing requirement in order to achieve a legitimate and substantial governmental purpose, the mere fact that there might be a slight infringement on the right of association does not and cannot void the power of the State to enact these reasonable regulations.

(c) The judgment of the lower court prohibits the Attorney General of the state from proceeding with or participating in any judicial proceeding against the National Association for the Advancement of Colored People, its affiliates, members, contributors, etc., under the pro-

visions of Act L. R. S. 12:401-409. This provision of the judgment in effect keeps the state from enforcing their requirements that the National Association for the Advancement of Colored People affiliates within the state file a list of their officers. Even if the *Alabama* and *Little Rock* cases, cited above, are applicable, which is strenuously denied, the decision of the lower court goes far beyond and even directly contrary thereto. In the *Alabama* case this Court specifically said that they found no objection whatsoever constitutionally or otherwise for the state requiring various organizations to furnish a list of their officers. Again, in the *Bates* case, the National Association for the Advancement of Colored People complied with Section 2, Part C of the City Ordinance which required the filing of a list of the officers, agents, servants, employees or representatives of such organization, and the salaries paid to them.

Accordingly, there is absolutely no jurisprudence whatsoever which would support directly or by implication the decision of the lower court in alleviating appellees from the necessity of filing a list of their officers.

(d) The other act passed pursuant to the police power of the State, would prevent any organization or affiliate thereof from doing business in the State if its activities were in any way controlled or directed by persons who were either Communists or members of subversive organizations. This Act, L. R. S. 14:385-388 would

require any affiliate from doing business in the State unless an affidavit was filed certifying to the fact that no officers of the national or parent organization were members of a Communist, Communist front or subversive organization.

It is difficult to see how the court below decided that the State of Louisiana, in seeking to protect its citizens, would not have the power to prevent Communist and/or subversive directors, from operating, controlling and directing subsidiary or affiliate organizations within this State.

(e) The case of *State of Louisiana, ex rel. Jack P. F. Gremillion, v. the National Association for the Advancement of Colored People* was the one removed from the State Court to the Federal Court. Although appellants herein strenuously objected to such removal, the Federal Court permitted the same despite the fact that: (1) the removal was not timely; (2) all of the defendants did not join in the removal, and (3) because the removers failed to file with their verified petition a copy of all the pleadings and orders served as required by law.

CONCLUSION.

In view of the serious constitutional and procedural errors made by the trial court below, it is seriously urged that the questions presented herein are substantial and of great importance not only to appellants but to each State in the Union and the citizens thereof. That a deci-

sion by this Court upon the timely and important questions presented herein will provide for the Bar and the public a guidepost for future action by the sovereign States and the citizens of the United States.

Respectfully submitted,

JACK P. F. GREMILLION,
Attorney General,
State of Louisiana,
Capitol,
Baton Rouge, Louisiana;

GEORGE PONDER,
First Assistant Attorney General,
State of Louisiana,
Capitol,
Baton Rouge, Louisiana;

WILLIAM P. SCHULER,
Assistant Attorney General,
Supreme Court Building,
New Orleans 12, Louisiana,
Attorneys for Appellants.

PROOF OF SERVICE.

I, William P. Schuler, one of the attorneys for appellants herein, and a member of the Bar of the Supreme Court of the United States, hereby certify that on the ..... day of ....., 1960, copies of the foregoing jurisdictional statement to the Supreme Court of the United States were served on the plaintiff herein by mailing same in duly addressed envelopes with first-class postage prepaid to his attorneys of record, as follows:

To A. P. Tureaud, 821 Orleans Ave., New Orleans, La.; to Robert L. Carter, 20 West 40th St., New York, N. Y. Sent air mail.

.....

WILLIAM P. SCHULER,
Assistant Attorney General,
State of Louisiana.

APPENDIX "A".

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS DIVISION

NO. 1678

THE STATE OF LOUISIANA, EX REL
JACK P. F. GREMILLION, ATTORNEY
Plaintiff-Respondent

v.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL
Defendants-Petitioners

NO. 8554

NEW ORLEANS BRANCH OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL
Plaintiffs

v.

WADE O. MARTIN, JR., SECRETARY OF STATE. STATE OF LOUISIANA, ET AL
Defendants

TEMPORARY INJUNCTION

These consolidated causes having been heard by this court on application of the National Association for the Advancement of Colored People and on application of the State of Louisiana for a temporary injunction, and the evidence having been adduced in affidavit and documentary form, and counsel for the National Association for the Advancement of Colored People and the Attorney General of the State of Louisiana having argued orally and submitted written briefs, and the court having considered all the evidence, the arguments and the briefs, the court is now ready to rule.

IT IS ORDERED:

1. That the application of the State of Louisiana for a temporary injunction be, and the same is hereby, DENIED.

2. That the Attorney General of the State of Louisiana, his assigns, agents or successors in office, and all persons acting in concert with him, and all other agents or agencies of the State of Louisiana, are hereby enjoined from enforcing, executing or proceeding against the National Association for the Advancement of Colored People, its affiliates, officers, members, contributors, voluntary workers, or any of them, under the provisions of Act 2 of 1924, La. R. S. of 1950, 12:401-409, and Act 260 of 1958, La. R. S. of 1950, 14:385-388, in such a manner as to compel the disclosure of the names or addresses of any

member or contributor of the National Association for the Advancement of Colored People in the State of Louisiana or to require the submission of an affidavit by any officer of any local affiliate of the National Association for the Advancement of Colored People as required by the provisions of Act 260 of 1958, La. R. S. of 1950, 14:385-388.

3. That the Attorney General of the State of Louisiana, his assigns, agents or successors in office, and all persons acting in concert with him, and all other agents or agencies of the State of Louisiana, are hereby enjoined from enforcing any penalties against the National Association for the Advancement of Colored People or any of its members, officers or contributors for failure to comply with the provisions of Act 2 of 1924, La. R. S. of 1950, 12:401-409, and Act 260 of 1958, La. R. S. of 1950, 14:385-388, as hereinbefore held invalid.

4. That the Attorney General of the State of Louisiana, his assigns, agents or successors in office, and all persons acting in concert with him, and all other agents or agencies of the State of Louisiana, are hereby enjoined from proceeding with or participating in any judicial proceeding, and particularly the judicial proceeding numbered 141252 now pending in the First Judicial District Court, Caddo Parish, Louisiana, and entitled "State Ex Rel. Jack P. F. Gremillion, Attorney General v. Shreveport Branch, National Association for the Advancement of Colored People, et al," against the National Association for the Advancement of Colored People, its affiliates, officers, members, contributors, voluntary workers, or any of them, under the provisions of Act 2 of 1924, La. R. S. 12:401-409, and Act 260 of 1958, La. R. S. 14:385-388.

5. That jurisdiction of this court is retained for the purpose of enforcing this temporary injunction and for the purpose of granting any further relief which may be warranted.

(Signed) JOHN MINOR WISDOM,
JOHN MINOR WISDOM, Circuit Judge

(Signed) HERBERT W. CHRISTENBERRY,
HERBERT W. CHRISTENBERRY,
District Judge

(Signed) J. SKELLY WRIGHT,
J. SKELLY WRIGHT, District Judge

CLERK'S OFFICE:

A TRUE COPY
Feb. 17, 1960
Chief Deputy Clerk, United States District Court
Eastern District of Louisiana
New Orleans, La.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS DIVISION

NO. 1678

THE STATE OF LOUISIANA, EX REL.
JACK P. F. GREMILLION, ATTORNEY
Plaintiff-Respondent,

v.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL.,
Defendants-Petitioners.

NO. 8554

NEW ORLEANS BRANCH of the National Association for the Advancement of Colored People, et al.,
Plaintiffs,

v.

WADE O. MARTIN, JR., Secretary of State, State of Louisiana, et al.,
Defendants.

Before WISDOM, Circuit Judge, and CHRISTENBERRY and WRIGHT, District Judges.

PER CURIAM:

In these consolidated proceedings the Court is required to determine the constitutionality of certain Louisiana statutes (Act 2 of 1924, La. R. S. of 1950, 12:401-409 and Act 260 of 1958, La. R. S. of 1950, 14:385-389) in the application of these statutes to the National Association for the Advancement of Colored People.

The association alleges that the disclosure of its membership, required under Act 2 of 1924, subjects its members to economic reprisals, loss of employment, threat of physical coercion, and other acts of public hostility, in violation of the First Amendment freedoms of speech and assembly and in violation of the due process clause of the Fourteenth Amendment. The Supreme Court decision of NAACP v. Alabama, 1958, 357 U. S. 449, controls the case now before us. In that decision, using the phrase "freedom of association" for the first time, the Supreme Court held that the NAACP was protected against forced disclosure of its membership.

Act 2 of 1924 was passed to curb the Ku Klux Klan, then engaged in Louisiana, as elsewhere, in acts of lawlessness and violence. It requires the principal officer in Louisiana "of each fraternal, patriotic, charitable, benevolent, literary, scientific, athletic, military or social organization" operating in Louisiana to file annually a list of the names and addresses of its membership residing in the state. It provides criminal penalties (mandatory jail sentences) for failure to file, as well as for holding meetings without filing.

A similar statute was held constitutional, as applied to the Klan, in Bryant v. Zimmerman, 1928, 278

U. S. 63. In that case, the Court took judicial notice that the Klan "functions largely at night, its members disguised by hoods and gowns and doing things calculated to strike terror into the minds of the people". In NAACP v. Alabama the Supreme Court distinguished Bryant v. Zimmerman on the ground that the "decision was based on the particular character of the Klan's activities, involving acts of unlawful intimidation and violence. . . ." Unlike the Ku Klux Klan, NAACP, however unpopular in Louisiana, officially and unofficially, is not shown to be an organization dedicated to "unlawful intimidation and violence".[1]

Until 1956 Act 2 of 1924 was not enforced. Few, if any, organizations complied with its provisions. After the decision of the Supreme Court in Brown v. Board of Education of Topeka, 1954, 349 U. S. 294, the then Attorney General of Louisiana brought one of the actions here in suit to enjoin the NAACP from operating in the state, for failure to comply with the statute. After the Attorney General's action and until the decision of the Supreme Court in NAACP v. Alabama, some of the affiliates of the NAACP in Louisiana filed membership lists as required by the statute. Since NAACP v. Alabama, the NAACP has not complied.

The documentary evidence submitted by the NAACP shows that some members, after exposure as members, have been subjected to certain economic reprisals. The Court's attention is called to the fact that the record shows that a large part of the NAACP membership was made up of teachers, and that Louisiana statutes deny employment to teachers[2] and others[3] who believe in

the integration of the races in public schools. After disclosure of the membership of NAACP affiliates in Louisiana, virtually **all** the teachers resigned and the general membership was reduced significantly.[4]

In NAACP v. Alabama, denying the State of Alabama access to the membership lists of the NAACP, the Supreme Court added: "We hold that the immunity from state scrutiny of membership lists which the Association claims on behalf of its members is here so related to the right of the members to pursue their lawful private interests privately and to associate freely with others in so doing as to come within the protection of the Fourteenth Amendment. And we conclude that Alabama has fallen short of showing a controlling justification for the deterrent effect on the free enjoyment of the right to associate which disclosure of membership lists is likely to have." 357 U. S. at 466. There is no difference at law between that case and this case.

There is no need to discuss Act 260 of 1958 at length. In open court the Attorney General conceded that the state was not interested in pressing the argument as to the constitutionality of the Act. He cited no authority in the brief. The state's concession is understandable. Act 260 would require, as a prerequisite for conducting activities in the state, that "every non-trading corporation, partnership or association of persons engaged in social, educational or political activities affiliated with any similar non-trading corporation, partnership or association of persons chartered, created, or operating under the laws of any other state, file an affidavit attesting to the fact

that none of the officers of such out-of-state or foreign corporation, partnership or association of persons with which it is affiliated is a member of any organization cited by the House of Congress (sic) Un-American Activities Committee or the United States Attorney General, as Communist, Communist front or subversive". The statute would require the impossible. It is clearly unconstitutional. NAACP v. Alabama, 857 U. S. 449; DeJonge v. Oregon, 299 U. S. 353; Near v. Minnesota, 283 U. S. 697.

A judgment and injunctive order will be issued in accordance with this opinion.

CLERK'S OFFICE:

A TRUE COPY

FEB. 19, 1960

Chief Deputy Clerk, United States District Court
Eastern District of Louisiana
New Orleans, La.

NO. 1678

THE STATE OF LOUISIANA, EX REL
JACK P. F. GREMILLION, ATTORNEY

v.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, ET AL.

No. 8554

NEW ORLEANS BRANCH of the National Association for the Advancement of Colored People, et al.

v.

WADE O. MARTIN, JR., Secretary of State, State of Louisiana, et al.

FOOTNOTES

[1] The certificate of incorporation of the NAACP provides that its "* * * principal objects * * * are voluntarily to promote equality of rights and eradicate caste or race prejudice among the citizens of the United States; to advance the interests of colored citizens; to secure for them impartial suffrage; and to increase their opportunities for securing justice in the courts, education for their

children, employment according to their ability and complete equality before the law."

[2] La. R.S. of 1950, 17:462.

[3] La. R.S. of 1950, 17:493.

[4] Since 1955, the year before the injunction proceedings were begun against the NAACP, the number of NAACP branches in Louisiana has declined from 65 to 10 and the total membership has declined from 13,000 to 6000.

CLERK'S OFFICE:

A TRUE COPY
FEB. 19, 1960

Chief Deputy Clerk, United States District Court
Eastern District of Louisiana
New Orleans, La.

APPENDIX "B"

La. Revised Statutes of 1950, Title 14:385-388
(Act 260 of 1958)

385. Organizations engaged in social, educational or political activities; Communist affiliations prohibited

Non-trading corporations, partnerships and associations of persons operating in the state of Louisiana and engaged in social, educational or political activities are prohibited from being affiliated with any foreign or out of state non-trading corporations, partnerships or associations of persons, any of the officers or members of the board of directors of which are members of Communist, Communist-front or subversive organizations, as cited by the House of Congress un-American Activities Committee,

or the United States Attorney. Reports or information from the files of the Committee on un-American Activities of the U. S. House of Representatives shall constitute prima facie evidence of such membership in said organizations.

386. Affidavits

As a condition precedent to being authorized to operate or conduct any activities in the state of Louisiana, every non-trading corporation, partnership or association of persons engaged in social, educational or political activities, affiliated with any similar non-trading corporation, partnership or association of persons, chartered, created or operating under the laws of any other state, shall file with the secretary of state yearly, on or before December 31, an affidavit attesting to the fact that none of the officers of such out of state or foreign corporation, partnership or association of persons with which it is affiliated, is a member of any such organization cited by the House of Congress un-American Activities Committee, or the United States Attorney General, as Communist, Communist-front or subversive.

387. Failure to file affidavit; penalty

Failure to file the affidavit required by R.S. 14:386 shall constitute a misdemeanor, and the officers and members of such non-trading corporation, partnership or association of persons operating in this state and affiliated with such out of state or foreign organizations, failing to file such affidavit, shall be deemed guilty of a misdemeanor and upon conviction by a court of competent juris-

diction shall be fined $100.00 and imprisoned 30 days in the parish jail.

388. False statements in affidavit as perjury

Any false statement under oath contained in the affidavit required by R.S. 14:123.

385. Organizations engaged in social, educational or political activities; Communist affiliations prohibited

Non-trading corporations, partnerships and associations of persons operating in the state of Louisiana and engaged in social, educational or political activities are prohibited from being affiliated with any foreign or out of state non-trading corporations, partnerships or associations of persons, any of the officers or members of the board of directors of which are members of Communist, Communist-front or subversive organizations, as cited by the House of Congress un-American Activities Committee, or the United States Attorney. Reports or information from the files of the Committee on un-American Activities of the U. S. House of Representatives shall constitute prima facie evidence of such membership in said organizations.

386. Affidavits

As a condition precedent to being authorized to operate or conduct any activities in the state of Louisiana, every non-trading corporation, partnership or association of persons engaged in social, educational or political activities, affiliated with any similar non-trading corporation, partnership or association of persons, chartered, created or operating under the laws of any other state, shall file with the secretary of state yearly, on or before December

31, an affidavit attesting to the fact that none of the officers of such out of state or foreign corporation, partnership or association of persons with which it is affiliated, is a member of any such organization cited by the House of Congress un-American Activities Committee, or the United States Attorney General, as Communist, Communist-front or subversive.

387. Failure to file affidavit; penalty

Failure to file the affidavit required by R.S. 14:386 shall constitute a misdemeanor, and the officers and members of such non-trading corporation, partnership or association of persons operating in this state and affiliated with such out of state or foreign organizations, failing to file such affidavit, shall be deemed guilty of a misdemeanor and upon conviction by a court of competent jurisdiction shall be fined $100.00 and imprisoned 30 days in the parish jail.

388. False statements in affidavit as perjury

Any false statement under oath contained in the affidavit required by R.S. 14:123.

[redacted]

La. Revised Statutes 12:401-409 (Act 2 of 1924)

401. Filing list of members and officers; failure to file

The principal officer or officers for this state, if there be such officer or officers, of each fraternal, patriotic, charitable, benevolent, literary, scientific, athletic, military, or social organization, or organization created for similar purposes, whether incorporated or unincorporated, operating in this state, with the exception of those hereinafter specifically excepted, shall file with the Secretary of State annually between December 16th and December 31st, inclusive, of each year, a full, complete and true list of the names and addresses of all of the members and officers of the organization living or residing in this state who are members at the time of the filing of the list, and of all those who have been members thereof at any time during the preceding period as defined in R.S. 12:407. These lists shall be certified under oath by the principal officer or officers. Any officer of such organization who fails to comply with the provisions of this Section shall be imprisoned not less than sixty days nor more than six months.

402. Filing list of members and officers of subdivision or subordinate body; failure to file

The principal officer of each subdivision or subordinate body located in this state of each fraternal, patriotic, charitable, benevolent, literary, scientific, athletic, military, or social organization, or organization created for similar purposes, whether incorporated or unincor-

porated, operating in this state, with the exception of those specifically excepted, shall file with the Secretary of State annually, between December 16th and December 31st, inclusive of each year thereafter, a full, complete and true list of the names and addresses of all of the members and the officers of such subdivision or subordinate body of such organizations who are members at the time of the filing of said list, and of those who have been members thereof at any time during the preceding period as defined in R.S. 12:407. These lists shall be certified under oath by the principal officer or officers. Any such officer of such subdivision or subordinate body of such organization who fails to comply with the provisions of this section shall be imprisoned for not less than sixty days nor more than six months.

403. Meetings prohibited unless membership list has been filed; penalty for violations

A. Every member of any fraternal, patriotic, charitable, benevolent, literary, scientific, athletic, military, or social organization, or organization created for similar purposes, whether incorporated or unincorporated, operating in this state, with the exception of those hereinafter specifically excepted, or of any subdivision or subordinate body thereof, is hereby prohibited from holding, assisting in holding, or attending any assembly, meeting, or gathering of such organization or of any subdivision or subordinate body of such organization unless a list of the officers and membership of the particular subdivision or subordinate body of such organization holding such assembly, meeting or gathering or within whose territorial jurisdiction said assembly, meeting, or gathering

is held has been filed with the Secretary of State as required by R.S. 12:402, and unless, in cases where there is a principal officer or officers for this state of such organization, there has been also filed with the Secretary of State a list as aforesaid of all of the members and officers of such organization living or residing in this state as required by R.S. 12:401.

B. If any member of such organization, or of any subdivision or subordinate body thereof, violates the provisions of this Section he shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than one hundred dollars or more than five hundred dollars or imprisoned for not less than thirty days or more than six months, or both.

404. District attorney to prosecute violations

District attorneys throughout this state shall prosecute without delay any violations of this Chapter.

405. Attorney General to dissolve organization and prevent meetings

The Attorney General shall proceed by injunction or otherwise to dissolve any organization or subdivision or subordinate body violating the provisions of this Chapter and to prevent any meeting of the officers and members thereof until they have complied herewith.

406. Churches and National Guard unaffected

Nothing in this Chapter shall apply to any regularly organized churches or National Guard organizations.

407. Period for which lists are to be filed

The preceding period for each year shall end on the 15th day of December of the year in which the lists shall be filed and shall begin on the 16th day of December of the preceding year.

408. Persons who are members

Any person shall be deemed a member, in contemplation of this Chapter, of the organization described in this Chapter, or of any subdivision or subordinate body thereof, who would be considered a member in the ordinary acceptation of the word or who has taken any oath or obligation in connection with any such organization, or who has received any degree or initiation from members or officers of such organization, or who, while living or residing in the territorial jurisdiction of any such organization or any subdivision or subordinate body thereof, has attended and participated in meetings or assemblies of such organization, or paid dues or fees to such organizations.

409. Lists to be permanent records of Secretary of State

The Secretary of State shall keep the lists filed with him under the terms of this Chapter as part of the permanent public records of his office.